IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2852 OF 2005

Shivdas Murlidhar Gaikwad & Ors. ...Petitioners

Versus

Kusum Ramchandra Aradhye ...Respondent.

Shri S.P.Thorat, for the Petitioners.
Shri Vilas B. Tapkir, for the Respondent.

CORAM : ANOOP V. MOHTA, J.

DATE : 19TH DECEMBER, 2005

P.C. :

1. The petitioners by this Writ Petition have challenged the impugned order dated 02-03-2005 passed by the Joint Civil Judge, Senior Division, Pandharpur below Exh.1 in Reg.Civil Suit No.93/2004 (original Reg.Civil Suit No.184/1998), whereby the Suit filed by the Original Plaintiff was decreed in terms of compromise, by passing the following order:

> "Plaintiff and defendant have arrived at compromise vide Exh.14 and 61 and the order passed below Exh.75. Hence, Suit stands decreed in terms of the compromise. Decree be drawn up accordingly. Issue court-fee refund certificate of half court fee in the name of plaintiff."

2. Having once decreed the Suit based on the compromise with signatures of the parties at the

relevant time and as it was signed and placed on record by the original tenant, like predecessor of the petitioners, there is no reason now to interfere with the said compromise filed on record, signed and settled by the parties at the relevant time.

3. The challenge to the said compromise decree by the legal heirs, at this stage cannot be entertained in such proceeding. There is a Suit already filed by the legal heirs of the predecessor-tenant and there they have challenged the said compromise decree. Having once invoked the Suit remedy for such declaration, the learned Judge, therefore, right in passing the impugned order.

4. Taking all this into account, there is no substance in this Writ Petition. Therefore, this Writ Petition is also dismissed, keeping all the points open.

5. Interim orders stands vacated.

(ANOOP V. MOHTA, J.)